the award ceremony on July 9th, Paul McMasters of the Freedom Forum delivered keynote remarks on current threats to the public's right to information, which are of importance to all Americans. Mr. McMasters' remarks are as follows:

On Independence Day, 1966, President Johnson took time out from holiday festivities at his ranch on the Perdernales to sign the Freedom of Information Act into law. If he had waited only a few hours more, a pocket veto of the legislation automatically would have gone into effect.

There was no press release, no ceremony, no special pens struck for the occasion. The chief sponsors were not invited.

It had taken 11 arduous years for Congressman John Moss of California to coax into existence a law that few in government liked or wanted. But the legislation finally made it through. This law providing meaningful access to government information embraced three democratic ideals:

The First Amendment guarantees of freedom of speech and the press.

Creation of a proper environment for the people to function as full partners in their own governance.

The checks-and-balances role of Congress.

That was 36 years ago. But we never quite escape the clutches of history. It has a way of landing on us suddenly and hard when we forget it. And when it comes to the conditions that created the great need for the FOIA back then, the past has caught up with us.

The reason that Congressman Moss and his colleagues worked so hard and endured so much getting FOIA passed was that it had become next to impossible for members of Congress and their staffs to obtain access to even the most routine of information in the custody of federal agencies or the White House.

Today, the federal government, while attending to the formidable responsibility of waging a war on terrorism, has allowed itself to slide backward into history with an ever-widening array of restrictions on access. These new restrictions in effect have demoted both the public and the Congress as partners in the democratic process.

Once more, Congress is summoned to the crucial task of championing access to government information—a role mandated by tradition, by law, and by the Constitution.

There is no question that in the world we live in today, there is some information that must remain secret to protect our national security. Beyond that narrow but important spectrum, however, the Congress, the public and the press should have maximum access to government information.

It is essential to the public so that we have true democratic decision-making.

It is essential to the press so that it can facilitate the flow of information among the three branches of government and the public.

It is essential to Congress so that it can provide proper oversight and accountability.

There always has been what some describe as a ''culture of secrecy'' in government. It is a natural thing because information is power; in some instances it is dangerous; in other instances, it may violate personal privacy or compromise an ongoing law-enforcement investigation. Responding to FOIA requests also is a drain on scarce resources.

But many restrictions on the flow of information in recent months have gone well beyond those considerations.

In addition, there is a theory afoot these days that to share information is to weaken the executive. That theory, in practice, may well be responsible for many of the current restrictions on access.

Finally, there is another reason for some restrictions: The horrors of September 11. That tragedy provoked a serious re-examination of our information policies—a reexamination that was legitimate and necessary. There are some secrets that must be kept.

But many of the changes in access policies that have come out in the wake of September 11 are not truly related to the war on terrorism; in many cases, they seem designed more to increase the comfort level of government leaders than the security level of the nation.

What has emerged is an environment where government is providing increasingly less information to U.S. citizens while demanding increasingly more information about them.

Many of these new restrictions impact directly on public access and in many instances the ability of members of Congress to participate in the making of policy and to represent their constituencies properly. To list a few:

Just as it was to go into effect, the law providing access to presidential records was severely compromised by an executive order, Many in Congress had to learn about the formation of an emergency government by reading about it in the newspapers, The White House dramatically reduced the number of intelligence briefings for Congress and the number of members who could attend, The executive branch has resisted congressional attempts to obtain information on a variety of vital topics, including the energy task force hearings, the FBI's relations with mob informants, and the decision to relax restrictions on emissions from older coal-fired power plants and refineries, The attorney general's memo on implementation of the FOIA turned a presumption of openness on its head, The Justice Department has stonewalled attempts to get information about the detainees rounded up in the aftermath of the September 11 attacks.

In addition, Congress increasingly is pressured to ''incentivize'' compliance with old laws and to spice up news laws by granting exemptions to the FOI and whistleblower laws. Examples include legislative proposals concerning critical infrastructure, the Transportation Security Administration and the proposed Homeland Security Department.

These developments raise several important questions: Do new laws, policies and executive actions live up to democratic principles, constitutional requirements and the true needs of national security? Are members of Congress providing insight as well as oversight in the formulation and implementation of access policies? How do we best affirm and ensure checks and balances among the executive, the legislative and the judicial branches and include the public and the press in the equation?

There are a number of ways Congress can address such questions: By commissioning a definitive study and public report calling for specific action, by creating a bipartisan caucus on access and accountability, by conducting hearings, or by establishing a joint select committee with FOIA oversight.

There are other things Congress can and should do to make access to information a priority in governmental life: Demand information from federal agencies and officials. Make information-sharing a priority. Conduct real oversight of FOIA compliance. Make federal agencies' FOIA performance a part of the budget process. Provide incentives for disclosure and penalties for noncompliance. Insist on discipline and rationality in classification authority. Harness technology to make government more transparent.

The key to bringing about change, however, is that the members of Congress themselves must care; if it's not important to them, it's not important at other levels and in other branches. Government information must be branded as crucial to democracy, to responsible governance and to freedom.

It really is up to Congress to create ways to protect access and to raise its value as a democratic principle.

It must embrace the idea that, except for very specific areas, information, not secrecy, is the best guarantor of the nation's security. There is danger in the dark.

And it must recognize that there always will be loud and persuasive voices raised on behalf of security, privacy and the protection of commercial interests—especially during times of national crisis—but there are no natural constituencies with the resources and organization to make the case for access and accountability.

That role falls rightly to Congress.

Democracy depends above all on public trust. Public trust depends on the sharing of power. And the sharing of power depends on the sharing of information.

That time-honored principle assuring the success of this ongoing adventure in democratic governance suffers mightily when the system of checks and balances becomes unbalanced and the role of Congress as guardians of access and accountability is compromised.

HONORING DR. GEORGE RABB ON HIS RETIREMENT

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 2002

Mr. LIPINSKI. Mr. Speaker, I rise today in recognition of a remarkable man, the longtime director of Brookfield Zoo, Dr. George B. Rabb.

Dr. Rabb joined Brookfield Zoo in 1956 as curator of research, and in 1976 he became the Director of the Zoo and President of the Chicago Zoological Society. Soon Dr. Rabb will pass the title he has held with distinction for 26 years on to a successor.

If proof is ever needed to verify the fact that one individual can make a difference, it can be found in the work of George Rabb. He has dedicated his life to conservation research and education, and his legacy reflects his love of nurturing harmony between people and nature. Dr. Rabb created Brookfield's Education Department and was instrumental in expanding the use of naturalistic exhibits to provide visitors with environmental immersion experiences throughout the zoo. Under his leadership, nine exhibits—including Tropic World, Seven Seas Panorama, and the Living Coast—have been built in this manner. The Zoo's most recent undertaking, the Hamill Family Play Zoo is an expression of Dr. Rabb's vision of the zoo as a conservation center and encourages children to develop a caring relationship with the natural world. Dr. Rabb is also responsible for the creation of the Department of Conservation Biology that supports many of the Zoo's world-renowned conservation-related research and field projects.

One measure of this remarkable conservationist can be found in the boards and commissions on which he serves and the awards he has received.

He has served as the Chairman of the Species Survival Commission (SSC), the largest

species conservation network in the world and is one of six commissions of IUCN, the World Conservation Union. In recognition of his continuing role as mentor for young scientists and other colleagues, IUCN established a graduate student internship program named in his honor. Dr. Rabb also serves as Vice-Chair of the Chicago Council on Biodiversity, President of Chicago Wilderness Magazine Board, and Board Chair of the Illinois State Museum.

Among the many awards given to Dr. Rabb are the Peter Scott Award from the Species Survival Commission, the R. Marlin Perkins Award from the American Zoo and Aquarium Association, the Silver Medal of the Royal Zoological Society of London, the Conservation Medal from the Zoological Society of San Diego, and the Distinguished Achievement Award from the Society for Conservation Biology.

My wife and I have spent many a weekend at the Zoo with our grandchildren, and I can tell you that I am proud to have Brookfield Zoo located in my district and to have had the honor of working with George Rabb over the years. I invite my colleagues to join me in sending best wishes to the good doctor as he ventures forward on his exciting new journey.

INTRODUCTION OF THE P2P PIRACY PREVENTION ACT

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 2002

Mr. BERMAN. Mr. Speaker, I rise today to introduce the P2P Piracy Prevention Act—legislation that will help stop peer-to-peer piracy.

The growth of peer-to-peer (P2P) networks has been staggering, even by Internet standards. From non-existence a few years ago, today nearly a dozen P2P networks have been deployed, a half-dozen have gained widespread acceptance, and one P2P network alone is responsible for 1.8 billion downloads each month. The steady growth in broadband access, which exponentially increases the speed, breadth, and usage of these P2P networks, indicates that P2P penetration and related downloading will continue to increase at a breakneck pace.

Unfortunately, the primary current application of P2P networks is unbridled copyright piracy. P2P downloads today consist largely of copyrighted music, and as download speeds improve, there has been a marked increase in P2P downloads of copyrighted software, games, photographs, karaoke tapes, and movies. Books, graphic designs, newspaper articles, needlepoint designs, and architectural drawings cannot be far behind. The owners and creators of these copyrighted works have not authorized their distribution through these P2P networks, and P2P distribution of this scale does not fit into any conception of fair use. Thus, there is no question that the vast majority of P2P downloads constitute copyright infringements for which the works' creators and owners receive no compensation.

The massive scale of P2P piracy and its growing breadth represents a direct threat to the livelihoods of U.S. copyright creators, including songwriters, recording artists, musicians, directors, photographers, graphic artists, journalists, novelists, and software programmers. It also threatens the survival of the industries in which these creators work, and the seamstresses, actors, Foley artists, carpenters, cameramen, administrative assistants, and sound engineers these industries employ. As these creators and their industries contribute greatly both to the cultural and economic vitality of the U.S., their livelihoods and survival must be protected.

Simply put, P2P piracy must be cleaned up. The question is how.

The answer appears to be a holistic approach involving a variety of components, none of which constitutes a silver bullet. Wider deployment of online services offering copyrighted works in legal, consumer-friendly ways, digital rights management technologies, lawsuits against infringers, prosecutions of egregious infringers, and technological self-help measures are all part of the solution to P2P piracy.

While Pursuit of many of these components to the P2P piracy solution requires no new legislation, I believe legislation is necessary to promote the usefulness of at least one such component. Specifically, enactment of the legislation I introduce today is necessary to enable responsible usage of technological self-help measures to stop copyright infringements on P2P networks.

Technology companies, copyright owners, and Congress are all working to develop security standards, loosely termed digital rights management (DRM) solutions, to protect copyrighted works from unauthorized reproduction, performance, and distribution. While the development and deployment of DRM solutions should be encouraged, they do not represent a complete solution to piracy. DFM solutions will not address the copyrighted works already ''in the clear'' on P2P networks. Additionally, DRM solutions will never be foolproof, and as each new generation of DRM solutions is cracked, the newly-unprotected copyrighted works will leak onto P2P networks. Similarly, copyrighted works cannot always be protected by DRM solutions, as they may be stolen prior to protection or when performed in the clear—for instance, when a movie is copied from the projection booth.

Shutting down all P2P systems is not a viable or desirable option for dealing with the massive copyright infringement they facilitate. While the 9th Circuit could shut Napster down because it utilized a central directory and centralized servers, the new P2P networks have increasingly engineered around that decision by incorporating varying levels of decentralization. It may be that truly decentralized P2P systems cannot be shut down, either by a court or technologically, unless the client P2P software is removed from each and every file trader's computer.

As important, P2P represents an efficient method of information transfer and supports a variety of legitimate business models. Removal of all P2P networks would stifle innovation. P2P networks must be cleaned up, not cleared out.

Copyright infringement lawsuits against infringing P2P users have a role to play, but are not viable or socially desirable options for addressing all P2P piracy. The costs of an all out litigation approach would be staggering for all parties. Copyright owners would incur overwhelming litigation expenses, other-wise-innocent P2P users would undoubtedly experience privacy violations, internet service providers and other intermediaries would experience high compliance costs, and an already overcrowded federal court system would face further strain. Further, the astounding speed with which copyrighted works are spread over P2P networks, and thus their immediate ubiquity on millions of computers, renders almost totally ineffective litigation against individual P2P users. Certainly, a suit against an individual P2P user will almost never result in recovery of sufficient damages to compensate for the damage caused.

In short, the costs of a litigation approach are likely to far outweigh the potential benefits. While litigation against the more egregious P2P pirates surely has a role, litigation alone should not be relied on to clean up P2P piracy.

One approach that has not been adequately explored is to allow technological solutions to address technological problems. Technological innovation, as represented by the creation of P2P networks and their subsequent decentralization, has been harnessed to facilitate massive P2P piracy. It is worth exploring, therefore, whether other technological innovations could be harnessed to combat this massive P2P piracy problem. Copyright owners could, at least conceptually, employ a variety of technological tools to prevent the illegal distribution of copyrighted works over a P2P network. Using interdiction, decoys, redirection, file-blocking, spoofs, or other technological tools, technology can help prevent P2P piracy.

There is nothing revolutionary about property owners using self-help—technological or otherwise—to secure or repossess their property. Satellite companies periodically use electronic countermeasures to stop the theft of their signals and programming. Car dealers repossess cars when the payments go unpaid. Software companies employ a variety of technologies to make software non-functional if license terms are violated.

However, in the context of P2P networks, technological self-help measures may not be legal due to a variety of state and federal statutes, including the Computer Fraud and Abuse Act of 1986. In other words, while P2P technology is free to innovate new, more efficient methods of P2P distribution that further exacerbate the piracy problem, copyright owners are not equally free to craft technological responses to P2P piracy.

Through the legislation I introduce today, Congress can free copyright creators and owners to develop technological tools to protect themselves against P2P piracy. The proposed legislation creates a safe harbor from liability so that copyright owners may use technological means to prevent the unauthorized distribution of that owner's copyrighted works via a P2P network.

This legislation is narrowly crafted, with strict bounds on acceptable behavior by the copyright owner. For instance, the legislation would not allow a copyright owner to plant a virus on a P2P user's computer, or otherwise remove, corrupt, or alter any files or data on the P2P user's computer.

The legislation provides a variety of remedies if the self-help measures taken by a copyright owner exceed the limits of the safe harbor. If such actions would have been illegal in the absence of the safe harbor, the copyright owner remains subject to the full range of liability that existed under prior law. If a copyright owner has engaged in abusive interdiction activities, an affected P2P user can file